Counterterrorism Law and Policy in the United Kingdom, Canada, and Australia: A Comparative Perspective

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Abstract
This article looks at the similarities and differences in British, Canadian, and Australian counterterrorism laws and policies. Canada and Australia are contrasted with the United Kingdom because their respective approaches to counterterrorism are based on the British approach, and yet have evolved to take into account differences in the nature and scope of the threat and the differing styles of governance in place in Canada and Australia. The article looks at each country in the context of: counterterrorism laws; detention and disruption practices; investigatory approaches; intelligence and law enforcement institutions; and the treatment of foreign fighters. The article then draws some conclusions regarding the evolution and divergence of counterterrorism law and policy in these countries and posits a question for future research.
Introduction

The United Kingdom has a long history of coping with terrorism, much of it the product of the long-running dispute over British control of Ireland, or, after 1922, of Northern Ireland. As the British had to cope with modern terrorism before the Canadians and Australians, and as Canada and Australia have often adopted and adapted British models of governance, it was natural for Canada and Australia to initially base their respective counterterrorism efforts on the British model. However, given that both Canada and Australia have federal forms of government, whereas the United Kingdom does not, it was necessary to adapt British frameworks accordingly and, as, both Canada and Australia face a terrorist threat that differs in scope and depth, this too necessitated an evolution in the original British frameworks. This article explores and contrasts the counterterrorism laws; detention practices; investigatory and prosecutor approaches; intelligence and law enforcement institutions; and the treatment of foreign fighters by the U.K., Canada, and Australia. The article begins with an historical context as to the development of counterterrorism laws and frameworks in the three countries and then identifies the points of divergence in counterterrorism laws and policies. It presents some hypotheses about Canadian and Australian policies diverging from the British model. Finally, the article draws general conclusions about the divergence of counterterrorism law and policy and posits questions for future research.

The Historical Development of British, Canadian, and Australian Counterterrorism Law

The historical conflict in Ireland influenced British counterterrorism (CT) law and policy. While the conflict itself arguably began in the sixteenth century, its more current manifestation dates to the start of ‘the troubles’ in Northern Ireland in 1969 (later spreading to the British mainland). The British initially handled the violence via what had ostensibly been a temporary emergency law, the Civil Authorities (Special Powers) Act (Northern Ireland), promulgated in 1922. This law, which initially had to be renewed every year, was made permanent in 1933 and its powers were extended significantly.1 The Special Powers Act (SPA) empowered the government to take actions such as the death penalty, imposing curfews,
banning meetings, search and seizure, banning military activities of designated terrorist organizations (in British parlance proscribed organizations) and, over time, also provided for internment and other actions. 2 During the 1969-1970 period, Northern Ireland’s police force, then known as the Royal Ulster Constabulary was overwhelmed and the British government decided to deploy the British Army in an effort to maintain law and order, particularly in Catholic areas of the province under the control of Republican organizations. The deployment of the military and the liberal use of the powers, such as internment without trial, granted by the SPA produced a reaction that increased the support for the terrorist and insurgent activities carried out by the Provisional Irish Republican Army. The deployment of the British Army did not ultimately have a positive impact on the levels of violence – with deaths increasing in the province during the 1969 to 1972 period from 16 to 479 (with 1972 being the bloodiest year of The Troubles). 3

In the wake of spiraling levels of violence and criticism of the British Government’s deployment of the military (particularly after the Bloody Sunday incident in January 1972), London decided in March 1972 to dissolve the government of Northern Ireland and to institute direct rule. As part of its effort to reduce the military component of the conflict as a way of trying to shore up the legitimacy of British rule and to focus more on preventive activities (such as intelligence-gathering), Parliament passed the Prevention of Terrorism (Emergency Provisions) Act (PTA) in 1974. 4 The PTA also needed to be applicable to the British mainland (Irish Republican terrorism had spread to the British mainland by this point) and it would arguably have been considerably harder to apply the draconian SPA laws to the mainland. Not surprisingly, the PTA also introduced exclusion orders for the British mainland in an effort to contain the violence to Northern Ireland. 5 Moreover, the PTA focus on intelligence-gathering and other measures to prevent terrorism could be seen as a recognition on the part of the British authorities that mass internment and other such enforcement activities were less effective than intelligence-focused preventive activities. At the same time, Parliament, in an effort to keep some of the enforcement mechanisms from the SPA, passed another piece of legislation, the Northern Ireland (Emergency Provisions) Act of 1973, which established a special court system to try terrorism cases without juries and made provisions for extensive pre-trail detention (28 days). 6
In the wake of the Good Friday peace accord of April 1998 and the passage that year of the Human Rights Act (which brought the United Kingdom into accord with the European Convention on Human Rights), both the security situation in Northern Ireland and the legal environment in the United Kingdom and internationally had changed dramatically and this meant that the PTA was allowed to sunset and were replaced in 2000 with the Terrorism Act. This law incorporated elements of the PTA but also afforded greater judicial scrutiny and respect for the rights of suspects and, unlike its successor, was designated as permanent rather than emergency legislation. The terrorist attacks against the United States on September 11, 2001 led to the quick passage that year of the Anti-Terrorism, Crime, and Security Act, which was more focused on the threat of international terrorism and included the power to detain and deport non-UK citizens, the power to freeze terrorist assets, and provisions for securing pathogens and toxins and for buttressing aviation security. These laws were later amended and broadened via the Prevention of Terrorism Act of 2005, which replaced the Anti-Terrorism, Crime, and Security Act, the Terrorism Act of 2006, the Counterterrorism Act of 2008, and the Counterterrorism and Security Act of 2015. All these laws are regular, permanent laws, though Parliament, via the Civil Contingencies Act of 2004, provides senior government ministers with the power to issue temporary emergency regulations when existing legislation fails to adequately address a situation and there is no time to produce new legislation.

Taken as a whole, British CT laws empower the authorities to engage in a wide range of activities which include: Longer prison centers, more intensive monitoring of convicted terrorists after their release, more intensive restriction on the movement of terrorism suspects and their communication with others (known as control orders), more significant penalties for possession of terrorist material as well as the viewing of terrorist material online. As the United Kingdom is not a federal country, laws passed by Parliament in London are applied throughout the territory of the United Kingdom (though, as noted above, in the past, certain laws were employed in Northern Ireland but not on the British mainland due to issues relating to the lack of political acceptability in using certain measures outside the province). As criminal and security law in the United Kingdom is national but policing is local, the British approach involves an
amalgamation of national and local agencies. In terms of intelligence-
gathering, the Security Service (MI5) works with Special Branch units in
local police agencies while terrorism investigations involve MI5 and a
national policing organization, the Counter Terrorism Command
partnering with local police agencies.

In Canada, emergency powers were used for dealing with domestic
terrorism threats, in a manner similar to that used in the United Kingdom.
The 1914 War Measures Act, which gave the Canadian Government
unlimited powers to guarantee the security, defense, peace, order, and
welfare of Canada, was used until 1970 to address domestic threats to
Canada (whether real or perceived). For example, this piece of emergency
legislation was employed in rounding up Japanese-Canadians and putting
them in internment camps during the Second World War. The War
Measures Act gave the authorities the power to censor publications and
arrest, detain, exclude, and deport individuals. In 1960, the War
Measures Act was amended by the Canadian Bill of Rights, which asserted
fundamental freedoms and the right to liberty and security of property,
though Section 2 of the law allowed for the continued use of the provisions
of the War Measures Act during domestic crises. In October 1970, the
War Measures Act was used to suspend civil liberties in Quebec in order to
cope with a terrorist threat from separatists, a move that generated
considerable criticism and eventually led to a more limited emergency law
in the form of the Emergencies Act, which replaced the War Measures Act
in 1988. Under the new law, the Cabinet could not issue orders and
regulations unless they were approved by Parliament and these orders and
regulations had to be in keeping with the Canadian constitution, the
Canadian Charter of Rights and Freedoms as well as the Canadian Bill of
Rights. In 2015, the Canadian Parliament passed the Anti-Terrorism Act
(Initially known as Bill C-51). The law, among other things, defines
terrorist activity, enhances aviation security, expands the types of activities
for which one can be charged with terrorism offenses (including the
possession of terrorist propaganda), allows for arrest without a warrant in
terrorism investigations, and allows for the deportation of non-citizens
posing a terrorism or other type of threat. Since terrorism is a federal
crime, dealt with primarily by the country’s federal law enforcement
agency, the Royal Canadian Mounted Police (RCMP) and the federal
domestic intelligence service, the Canadian Security Intelligence Service
(CSIS), the laws mentioned above apply equally throughout Canadian territory.

Australia has chosen to deal with the terrorism threat through permanent, non-emergency, legislation and via the use of civilian policing agencies (as opposed to the military). Australia employs regular criminal legislation in the form of the Crimes Act (1914) and Criminal Code Act (1995). The Criminal Code Act was amended several times to include amendments focused on counterterrorism. Since the September 11, 2001 terrorist attacks in the United States, Australia has enacted over sixty counterterrorism-focused laws and include laws that allow for searches without warrants, banning of terrorist groups, and preventive detention. These include the Anti Terrorism Act of 2005, the National Security Legislation Amendment Bill of 2010, and the National Security Legislation Amendment Bill of 2014. As will be demonstrated later, the fact that Australia has employed regular laws rather than emergency ones does not suggest that its laws are necessarily less draconian than those emergency laws employed by the British and Canadians. The absence of the use of emergency laws and the employment of the military for domestic counterterrorism duties may possibly be attributed to the minimal domestic terrorism threat in Australia. As with Canada, terrorism is a federal offense investigated by the Australian Federal Police (AFP) and the country’s domestic intelligence service, the Australian Security Intelligence Organization (ASIO). At the same time, the federal government signed an Agreement on Counterterrorism Laws with the state and territorial governments in 2004 to coordinate CT legislation, and this because terrorism is also a state offense and there has been variability in CT laws across the states.

In comparing the three countries, we see an initial tendency to use emergency legislation (and rely, at times, on the military) in the British case (no doubt due to the long and difficult conflict in Ireland) and similar initial tendencies to use emergency legislation and much more limited military force in Canada, and this in contrast with Australia, which chose not to employ emergency legislation or deploy military forces domestically in a counterterrorism context. In terms of the territorial jurisdiction of counterterrorism law, both the United Kingdom and Canada enforce their respective CT laws across their territory (in the Canadian case, since the federal government has jurisdiction over terrorism issues). Australia,
while also enforcing federal laws across the country, also has state CT laws in each state of the Commonwealth.

Detention and Disruption Practices in Comparison

The British authorities have long used executive preventive detention practices in colonial territories and even within the United Kingdom itself. With decolonization in the 1950s and 1960s, these practices generally ended and the United Kingdom shifted to a more limited judicial-based system of pre-charge detention, which was used widely in Northern Ireland during The Troubles. Unlike preventive detention, which is designed to hold a suspect who is considered dangerous, until such time as he or she can be charged at some future time, pre-charge detention is linked to a fairly short judicial process in which a suspect is to be arraigned within a more limited period of time and the process is designed to give police and prosecutors additional time to assemble evidence. The PTA included provisions for a seven-day pre-charge detention period (with access to an attorney after 48 hours), which contrasts with the standard criminal procedure in which pre-charge detention lasts no more than 96 hours.16

Pre-charge detention was increased in the wake of the September 11, 2001 terrorist attacks in the United States to fourteen days and then increased again after the terrorist attacks against the London Underground on July 7, 2005, to where it currently stands at 28 days. Given the limitations of pre-charge detention in cases where the British authorities were unable to obtain the requisite evidence in the 28 days or were concerned that the provision of evidence might compromise intelligence sources, the authorities can employ the Terrorism Prevention and Investigation Measures Act of 2011 and limit freedom of movement without detention under Terrorism Prevention and Investigation Measures (TPIMs) that can be used to institute limited house arrest, forced relocation, electronic tagging, limitations on access to weapons, and, where relevant, require the individual to attend de-radicalization activities.17 Overall however, TPIMs are not often used and, as of October 2016, only six persons were subject to TPIMs.18

In Canada, the Anti-Terrorism Act of 2015 increased the period of preventive detention from three days to seven days. In addition, Canada
has its own version of TPIMs known as “Peace Bonds” to limit internet and cell phone usage, impose electronic tagging, curfews, and limits on movement to certain locations. Peace Bonds are issued for up to one year (and up to two years for convicted terrorists) in situations where a fear may exist that the individual might commit a terrorist act and if an individual refuses to sign a peace bond and adhere to its restrictions, he or she can be incarcerated for up to twelve months.

In Australia, the federal government can issue a Preventive Detention Order (PDO) for up to 48 hours in the event that an individual is suspected of preparing for a terrorist act, however, as the PDO is a form of preventive detention as opposed to pre-charge detention, the police are barred from questioning the suspect while he or she is under a PDO. However, state governments, arguing that federal PDOs did not provide police with adequate time for investigation, empowered themselves to extend the preventive detention period for state PDOs to fourteen days. In addition, Australia’s domestic intelligence service, the ASIO, has the power, upon receipt of a Questioning Warrant from a judge or federal magistrate, to detain terrorism suspects for up to seven days for questioning. The Australian government and individual state governments can also issue control orders that limit the freedom of movement of terrorism suspects, their ability to communicate with certain people or in certain ways, and require them to wear a tracking device. These provisions are similar to the control orders previously used in the United Kingdom and replaced by more limited TPIMs.

Investigatory Approaches in Comparison

From the perspective of counterterrorism investigations and prosecutions, the United Kingdom, Canada, and Australia share similar legal systems and approaches. In the United Kingdom, Section 43 (1) of the Terrorism Act empowers police to stop and search persons and vehicles under any conditions if there is a reasonable suspicion that the individual is a terrorist. Section 44 of this law allows police to search persons and vehicles without reasonable suspicion in areas designated by a senior police officer as cordoned areas for periods of up to 28 days. Moreover, during emergencies, any police officer can declare a cordoned area. In extreme cases, the power to designate provides senior police officers with the authority to issue their own search warrant to search a premise outside
a cordoned area. There are limits placed on the admissibility of evidence gathered in this manner because these powers were designed to safeguard public safety.

The British police and intelligence agencies also enjoy wide authority to conduct surveillance. Under the Investigatory Powers Act of 2016, the Home Secretary, ministers of the Scottish government, the heads of the intelligence agencies, and a number of senior police officers are authorized to issue warrants for the monitoring of communications. Generally-speaking, information obtained through surveillance or communications interception is not admissible in court, which is usually in keeping with the desires of the intelligence community, which is not interested in the exposure of sources and methods of intelligence-gathering. Nevertheless, the 2013 Justice and Security Act created a close material procedures framework in which intelligence can be provided to specially-cleared judges and attorneys and in which sensitive information is provided to the court in-camera (in other words, secretly). Investigating terrorism threats is seen as fundamentally a police matter in the United Kingdom with the intelligence agencies, such as the domestic intelligence service, the Security Service (more commonly known as MI5) collecting and analyzing intelligence in support of police investigations, or prior to police investigations.

In Canada, surveillance of terrorism suspects and wiretapping generally require a warrant from a Federal Court judge, but 2001 revisions to the Criminal Code afforded police and customs officers with the power to engage in warrantless searches when authorized by a senior law enforcement official and when it is impractical to obtain a warrant due to time or other constraints. Investigations into terrorist activity are conducted by the country’s federal police force, the RCMP with intelligence support on the part of Canada’s largely domestic intelligence service, the Canadian Security Intelligence Service (CSIS) and other intelligence services (such as the Communications Security Establishment – CSE – Canada’s electronic intelligence agency). Despite the nature of the terrorism threat and the difference between terrorism and traditional crime, Canada, like the United Kingdom, fundamentally views terrorism as a criminal act.

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In Australia, the Crimes Act 1914 allows the AFP and state police officers to stop and search anyone on the basis of a reasonable suspicion that the individual has committed or is about to commit a terrorist offense and, as with the United Kingdom, anyone can be searched in prescribed security zones, even if they do not meet the threshold for reasonable suspicion. In general however, counterterrorism searches require a warrant.

With respect to surveillance, Australia’s domestic intelligence service, the ASIO must obtain an authority to investigate from the federal (commonwealth) government’s chief legal official, the Attorney-General, in order to conduct covert surveillance. As in Canada and the United Kingdom, terrorism investigations are, first and foremost, a police matter and the intelligence agencies work to support police investigations. Unlike the United Kingdom and Canada, both of which employ national-level policing agencies to investigate terrorism, Australia uses either its federal police force (the AFP) or state and territorial police forces as the lead investigative agencies for terrorism investigations depending on the circumstances of the investigation.

Intelligence, and Law Enforcement Institutions in Comparison

The United Kingdom’s four intelligence organizations: The Security Service (MI5), the Secret Intelligence Service (MI6), Government Communications Headquarters (GCHQ), and Defense Intelligence engage in counterterrorism intelligence-gathering, though MI5 is the country’s primary counterterrorism intelligence agency. In terms of law enforcement entities tasked with counterterrorism investigations, the United Kingdom has developed a hybrid model that involves both local police agencies and national-level agencies. The United Kingdom is policed by 45 regional police forces (39 in England, four in Wales, one in Scotland, and one in Northern Ireland) as well as four specialist national-level police forces (the British Transport Police, Civil Nuclear Constabulary, Ministry of Defense Police, and National Police Air Service). Each regional police force contains a Special Branch unit. Each Special Branch unit is tasked, among other duties, with developing intelligence and assisting in investigations into terrorism threats. The Special Branch units consist of officers who are cleared and trained by MI5 and, while under the authority of their respective chief constables (police chiefs), can be tasked by MI5 as a force-multiplier and a provider of local expertise in
counterterrorism intelligence-gathering. While it may be somewhat of an oversimplification, in principle, Special Branch units in the territorial police forces focus, along with MI5, focus on developing and accessing intelligence. When conducting formal terrorism investigations for the purpose of gathering evidence and prosecuting suspects, the national-level Counter Terrorism Command (also known as SO15) assists territorial police forces in collecting evidence. The head of the Counter Terrorism Command also serves as the National Coordinator for Terrorist Investigations, and, in this capacity, he or she is responsible for coordinating activities between local police forces, SO15, and MI5 through chairing an Executive Liaison Group (ELG) set up to manage the investigation and determine when to make arrests.

The Canadian Security Intelligence Service (CSIS), the country’s domestic intelligence agency, collects and analyzes intelligence about terrorism threat, among other responsibilities. In collaboration with CSIS, and, when necessary, local or provincial police forces, the national police force, RCMP, conducts counterterrorism investigations. Although, the RCMP is the country’s federal police force it also contracts with eleven of Canada’s thirteen provinces and territories to enforce provincial or territorial law, thus providing provincial or territorial-level law enforcement. In addition, the RCMP contracts to provide local policing services for many towns and cities in the country. The RCMP conducts terrorism investigations under its National Security Criminal Investigations Program via Integrated National Security Enforcement Teams and National Security Enforcement Sections. Integrated National Security Enforcement Teams operate in six major cities across the country and bring together RCMP officers with members of local or provincial police forces (where relevant) as well as CSIS officers and members of Canada’s Border Services Agency. teams are comprised of RCMP officers tasked with running national security investigations, including terrorism investigations.

In Australia, the primary counterterrorism intelligence service is the country’s domestic intelligence service, the ASIO, though the foreign intelligence service, the Australian Secret Intelligence Service (ASIS) and the Defense Intelligence Agency and Defense Signals Directorate, also provide counterterrorism-related intelligence. Australian Security Intelligence Organization operates a Counter Terrorism Control Center that brings in representatives from police forces and other government
agencies and is tasked with prioritizing and evaluating counterterrorism investigations. Unlike its counterparts in MI5 and CSIS, ASIO personnel have been increasingly called upon to gather evidence for criminal prosecutions and play a guiding role in investigations and some commentators have suggested that it may eventually take on a role closer to that of the FBI in the United States. Australia’s national police force, the AFP engages in federal (commonwealth) level law enforcement and acts as the prime liaison between ASIO and Australia’s state police forces (the majority of policing in Australia is carried out by state police forces). The AFP shares information with ASIO, the Australian Border Force, and state police forces via Joint Counterterrorism Teams (JCTTs) and also maintains assets (for example, forensics, intelligence support, and response forces) to support counterterrorism efforts by state police agencies. In most situations, state governments have primary operational responsibility for dealing with terrorism situations with the federal (commonwealth) government, via the AFP or ASIO, providing operational support. At the same time, in cases of severe terrorism threats or situations, the Commonwealth government can declare a national terrorist situation and under this status, the government in Canberra takes control of the response to the incident or potential situation.

Overall, the United Kingdom has a unique operational environment for counterterrorism investigations involving MI5, local police agencies via their respective Special Branches, and national-level policing entities based in the Metropolitan Police Service of London. Canada, on the other hand, employs an approach based on cooperation between CSIS and its national police agency, the RCMP, with the RCMP running counterterrorism investigations, often in cooperation with Provincial and local police (in parts of the country where the RCMP does not enjoy a monopoly on policing). Australia employs somewhat of a more American model in which ASIO works with the AFP and state police forces via JCTTs and in which state police forces enjoy considerable latitude in investigating terrorism offenses and in which ASIO acts as somewhat of a law enforcement investigative agency.
Coping with the Challenge of Foreign Fighters in the United Kingdom, Canada, and Australia

The threat posed by the possible return of citizens of Western countries (foreign fighters) who went to Syria to join various Jihadist groups after the outbreak of the Syrian civil war in 2011, led a range of Western countries to adopt legislation and policies designed to slow or prevent the return of those who were suspected of engaging in terrorism and, in some cases, to void the citizenship of returnees who pose a threat or were convicted of terrorism offenses. In the United Kingdom, the Counterterrorism and Security Act of 2015 allows the Foreign Secretary to issue a Temporary Exclusion Order (TEO) that prevents a person from being able to enter the country for up to two years. The law also allows the authorities to bar such individuals from entering the United Kingdom until they agree to engage with the police or enter a de-radicalization program. In Canada, the 2014 amendment to its Citizenship Act empowers the authorities to revoke citizenship of dual nationals, but the bar is higher for this in that such individuals need to be first convicted of terrorism, espionage, or acts of war against Canada. In Australia, 2014 changes to the Australian Passports Act 2005 empower the authorities to seize passports and prevent people from traveling overseas and in 2015, the Australian parliament amended its counterterrorism legislation to allow the government to strip Australian citizenship from dual nationals convicted of terrorism offenses.

Overall, the British take a more expansive approach to stripping citizenship, and they do not require that the individual who loses his/her British citizenship have citizenship in another country, just that he or she has the potential to immigrate to another country. An example of this is the case of Shamima Begum, a British teenager who went to Syria to join ISIS at age 15. The British government stripped her of her citizenship in February 2019 even though she is not a citizen of another country on the grounds that because her parents are dual British-Bangladeshi citizens,
she is eligible for Bangladeshi citizenship. Also, the British do not require that an individual be convicted of a crime in order to authorize the stripping of citizenship whereas such a conviction is a prerequisite for stripping one of Canadian citizenship. Similarly, Australia currently requires a terrorism conviction to strip dual nationals of citizenship, but, as of the time of this writing, an amendment to the Australian Citizenship Act 2007 has been passed by the Australian House of Representatives and is pending in the Australian Senate. This amendment, if passed, will bring Australia in line with the United Kingdom and empower the Home Affairs Minister to revoke the citizenship of dual nationals based on an assessment of the threat that they pose.

Conclusion

Although Canada and Australia have parliamentary and legal systems modeled on the United Kingdom, there are significant differences between these three countries. The divergence in counterterrorism laws, institutions, and policies are a function of a variety of factors, but the nature of the terrorism threat over time as well as the fundamental institutional structures of these three countries, have arguably been the main factors in the divergence in counterterrorism approaches. The fact that the British had to deal with a quasi-insurgency and significant terrorism campaign in Northern Ireland (with the terrorism campaign extending to the British mainland) whereas neither the Canadians nor the Australians faced the same type of threat, has led to British experimentation (some of it unsuccessful) with a variety of laws, approaches, and institutions. In some cases, the British could also fall back on structures in place from earlier periods when they had to deal with insurgencies and terrorism in their various colonies. Additionally, even though the United Kingdom previously ran its empire in a quasi-federative manner and despite the fact that the United Kingdom consists of separate nations (for example, England, Scotland, Wales, Northern Ireland – with the latter three enjoying their own parliaments and powers of taxation), it is a unitary state ruled, for the most part, from London. This means that counterterrorism law, policy, and doctrine come from the national government (though the local policing model in place in the United Kingdom means that national governmental agencies work through and with local policing agencies).
By contrast, Canada and Australia have not had a long history dealing with terrorism threats and, even today, face less severe terrorism threats compared not only to the United Kingdom, but the United States, France, Israel, and other western democracies. This has meant, in part, that the Canadians and Australians were able to introduce counterterrorism laws and practices modeled on British and the practices of other countries at a comparatively later stage (thus benefitting from overseas lessons, both positive and negative). In addition, unlike the United Kingdom, both Canada and Australia have federal systems of government, which means that counterterrorism law, doctrine, and policy must work within the constraints of the authorities of the respective federal governments can do vis a vis the respective provincial or state governments. At the same time, both these countries have a federal police force tasked with counterterrorism duties as well as a national domestic intelligence service. The United Kingdom and Canada prosecute suspected terrorists under national law (federal law in Canada), but Australia also prosecutes them under state law.

Overall, despite common origins, the variability in British, Canadian, and Australian counterterrorism practices are largely a function of history and the different legal and institutional structures that developed in these countries. An interesting question to be explored in future research is whether the nature of the terrorism threat drove modifications to these fundamental structures, or whether terrorism threats are handled based on the structures in place, regardless of the nature of those threats.

Endnotes

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